

October 4, 2023

By ECF

The Honorable Pamela K. Chen
United States District Judge
U.S.D.C. for the Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: EBIN New York, Inc. v. SIC Enterprise, Inc., Case No. 1:19-cv-01017-PKC-TAM

Dear Judge Chen:

This firm represents defendant and counterclaimant SIC Enterprise, Inc. (“Counterclaimant”) in the above-referenced action. We write in response to the Court’s September 20, 2023 Order (Dkt. 156) requesting a report on the status of Counterclaimant’s amended counterclaims. As the Court is aware, pursuant to the parties’ stipulation to amend their operative pleadings filed on July 6, 2022, Counterclaimant amended its operative counterclaims to dismiss with prejudice its first cause of action for trade dress infringement and that portion of its third cause of action for common law unfair competition based on its alleged trade dress rights in its display cases and manner of display, and Plaintiff and Counter-Defendant EBIN New York, Inc. (“Counter-Defendant”) stipulated to liability on Counterclaimant’s second cause of action for trademark infringement and that portion of Counterclaimant’s third cause of action for common law unfair competition based on Counterclaimant’s trademark rights in EDGE BOOSTER and EDGEBOOSTER. (Dkt. 107 ¶¶ 4, 5). The amended counterclaims (which mirrored the counterclaims on which Counter-Defendant stipulated to liability) were filed on July 22, 2022 (Dkt. 111) based upon a misunderstanding of the Court’s July 8, 2022 order. Counterclaimant confirms that it has no remaining unadjudicated counterclaims.

Very truly yours,
/s/Paul A. Bost
Paul A. Bost

SMRH:4867-5671-2067.2

cc: Counsel of Record (By ECF)